

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

DONALD E. MUDICA, III,

Petitioner,

v.

CAUSE NO. 3:19-CV-1054-PPS-MGG

WARDEN,

Respondent.

OPINION AND ORDER

Donald E. Mudica, III, is a prisoner at the Westville Correctional Facility.

Without a lawyer, he filed a habeas corpus petition attempting to challenge a prison disciplinary hearing held at St. Joseph County Community Corrections where he was charged with Possession of a Weapon or a Makeshift Weapon. Mudica states he was not found guilty and did not lose any earned credit time as a result of this proceeding. A prison disciplinary action can only be challenged in a habeas corpus proceeding where it results in the lengthening of the duration of confinement. *Hadley v. Holmes*, 341 F.3d 661, 664 (7th Cir. 2003). Because this charge did not result in the lengthening of the duration of his confinement, he cannot challenge this disciplinary action in a habeas corpus proceeding.

Mudica argues this charge was used to revoke his placement in the county jail and send him to the Indiana Department of Correction to complete his sentence. However, the Constitution does not create a due process liberty interest in avoiding transfers. *Sandin v. Conner*, 515 U.S. 472 (1995), *see also Cochran v. Buss*, 381 F.3d 637, 641

(7th Cir. 2004) (collateral consequences of prison disciplinary proceeding are not a basis for habeas corpus relief).

If Mudica wants to appeal this decision, he does not need a certificate of appealability because he is challenging a prison disciplinary proceeding. *See Evans v. Circuit Court*, 569 F.3d 665, 666 (7th Cir. 2009). However, he may not proceed in forma pauperis on appeal because I find pursuant to 28 U.S.C. § 1915(a)(3) that an appeal in this case could not be taken in good faith. Nevertheless, if Mudica files a notice of appeal, he may ask the United States Court of Appeals for leave to proceed in forma pauperis by filing a motion with the Circuit Court along with a copy of this order demonstrating that he has already been denied leave to proceed in forma pauperis by the District Court.

For these reasons, the court:

- (1) DENIES the habeas corpus petition (ECF 1);
- (2) DIRECTS the clerk to enter judgment; and
- (3) DENIES Donald E. Mudica, III, leave to proceed in forma pauperis on appeal.

SO ORDERED on February 20, 2020.

/s/ Philip P. Simon
PHILIP P. SIMON, JUDGE
UNITED STATES DISTRICT COURT